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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

GROUP ART UNIT 1772
In re: Application
BEVERLY RICHARD

EXAMINER: WILLIAM P. WATKINS III
Subject: ANTIBACTERIAL TOILET TISSUE

Serial No. 10/057,346

Filed: January 28, 2002

COMMISSIONER OF PATENTS
P. O. BOX 1450
ALEXANDRIA, VA. 22313-1450

Sir:

REMARKS

In response to the Official Office Action dated November 18, 2004, Claims 1 through 12 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,280,757 issued to David M. McAtee et al.

Reconsideration is hereby requested.

Claim 1 of Applicant's invention discloses an antibacterial tissue which includes an upper planar shaped absorbent member. The antibacterial tissue also includes an intermediate planar shaped absorbent member having a plurality of apertures formed therein coupled to the upper planar shaped absorbent member. Additionally an antibacterial member is formed on an upper surface of the intermediate planar shaped absorbent member between the upper planar shaped absorbent member and the intermediate planar shaped absorbent member. Still further the antibacterial tissue includes a lower planar shaped absorbent member which is coupled to a lower surface of the intermediate planar shaped absorbent member.

Claim 2 of Applicant's invention discloses an antibacterial tissue as defined in claim 1 wherein the upper planar shaped absorbent member includes a thin one ply paper absorbent material.

Claim 3 discloses an antibacterial tissue as defined in claim 2 wherein the intermediate planar shaped absorbent member includes a thin one ply paper material having a plurality of openings formed therein.

In claim 4 of Applicant's invention an antibacterial tissue is disclosed as defined in Claim 3 wherein the antibacterial member is a dry antibacterial member which is activated by moisture from the body.

Claim 5 further discloses an antibacterial tissue as defined in Claim 4 wherein the antibacterial member includes a layer of antibacterial soap.

Claim 6 further discloses an antibacterial tissue as defined in Claim 5 wherein the antibacterial member includes a layer of antibacterial agent.

The McAtee patent discloses a disposable personal cleansing article useful for cleansing, and optionally conditioning the skin or hair. The cleansing article of this invention includes is a two-ply substrate wherein one or both plies are apertured. At least one of the plies of the article is wet extensible and the other ply is less wet extensible. The articles are substantially dry prior to use and contain one or more water soluble and water insoluble conditioning agents in addition to a lathering agent. The articles are used by the consumer by wetting the article, which may be dry, with water and thereafter forming a lather by rubbing the article against itself and/or against the skin or hair.

There is no teaching in the McAtee patent of an upper planar shaped absorbent member as taught in Applicant's Claim 1. There is also no teaching or suggestion in the

McAtee patent of an intermediate planar shaped absorbent member having a plurality of apertures formed therein coupled to the upper planar shaped absorbent member. Additionally there is no teaching or suggestion in the McAtee patent of an antibacterial member being formed on an upper surface of the intermediate planar shaped absorbent member between the upper planar shaped absorbent member and the intermediate planar shaped absorbent member. Still further there is no teaching or suggestion in the McAtee patent of a lower planar shaped absorbent member which is coupled to a lower surface of the intermediate planar shaped absorbent member as taught in Applicant's claim. Rather the McAtee patent discloses a two-ply article with one ply being wet extensible and the other ply being less wet extensible.

The Examiner contends that the McAtee patent discloses two outer layers, which maybe made of paper fibers and an internal patterned adhesive layer with a cleaning substance in the patterned adhesive. The Examiner also contends that more than two plies may also be used with any or all of the plies being apertured. This is not the case. The McAtee patent discloses that when two or more layers are formed they are used to form the water insoluble substrate. The apertures do not protrude completely through the surface as taught in Applicant's claim. The Examiner also contends that there is an upper member that is substantially planar and cites figure 5A. There is no substantially planar upper member in figure 5A. It is respectfully submitted that the Examiner's position can only be maintained through hindsight after having the benefit of the teachings of Applicant's invention.

Clearly Applicant's Claim 1 is distinguishable over the McAtee Patent.

Claims 2 through 6 which depend from claim 1 are distinguishable over the McAtee patent for the same reasons as set forth in Claim 1. Additionally claim 2 is further distinguishable over the McAtee patent because there is no teaching or suggestion in the McAtee patent of the upper planar shaped absorbent member including a thin one ply paper absorbent material.

Claim 3 is also further distinguishable over the McAtee patent because there is no teaching or suggestion in the McAtee patent of an antibacterial tissue wherein the intermediate planar shaped absorbent member includes a thin one ply paper material having a plurality of openings formed therein as taught by Applicant.

Still further claim 4 is distinguishable over the McAtee patent because there is no teaching or suggestion in the McAtee patent of the antibacterial member having a dry antibacterial member which is activated by moisture from the body as in Applicant's Claim 4. Instead the McAtee patent discloses a soap and lathering agent that is activated by wetting the article and rubbing the article against itself.

Claim 5 is further distinguishable over the McAtee patent because there is no teaching or suggestion in the McAtee patent of an antibacterial tissue wherein the antibacterial member includes a layer of antibacterial soap.

There is also no teaching or suggestion in the McAtee patent of an antibacterial tissue wherein the antibacterial member includes a layer of antibacterial agent as taught in Applicant's claim 6.

Claim 7 of Applicant's invention discloses an antibacterial tissue which includes an upper planar shaped absorbent member. The antibacterial tissue also includes a lower planar shaped absorbent member having a plurality of apertures formed therein coupled

to the upper planar shaped absorbent member. Additionally an antibacterial member is formed on an upper surface of the lower planar shaped absorbent member between the upper planar shaped absorbent member and the lower planar shaped absorbent member.

Claim 8 of Applicant's invention discloses an antibacterial tissue as defined in claim 7 wherein the upper planar shaped absorbent member includes a thin one ply paper absorbent material.

Claim 9 discloses an antibacterial tissue as defined in claim 8 wherein the lower planar shaped absorbent member includes a thin one ply paper material having a plurality of openings formed therein.

In claim 10 of Applicant's invention an antibacterial tissue is disclosed as defined in Claim 9 wherein the antibacterial member is a dry antibacterial member which is activated by moisture from the body.

Claim 11 further discloses an antibacterial tissue as defined in Claim 10 wherein the antibacterial member includes a layer of antibacterial soap.

Claim 12 further discloses an antibacterial tissue as defined in Claim 11 wherein the antibacterial member includes a layer of antibacterial agent.

There is no teaching in the McAtee patent of an upper planar shaped absorbent member as taught in Applicant's Claim 7. There is also no teaching or suggestion in the McAtee patent of a lower planar shaped absorbent member having a plurality of apertures formed therein coupled to the upper planar shaped absorbent member as taught in Applicant's Claim 7. There is also no teaching or suggestion in the McAtee patent of an antibacterial member formed on an upper surface of the lower planar shaped absorbent member and the lower planar shaped absorbent member as taught by Applicant. Rather

the McAtee patent discloses a two-ply article with one ply being wet extensible and the other ply being less wet extensible.

Clearly Applicant's Claim 7 is distinguishable over the McAtee Patent.

Claims 8 through 12 which depend from claim 7 is distinguishable over the McAtee patent for the same reasons as set forth in Claim 7. Additionally claim 8 is distinguishable over the McAtee patent because there is no teaching or suggestion in the McAtee patent of the upper planar shaped absorbent member including a thin one ply paper absorbent material.

Claim 9 is also further distinguishable over the McAtee patent because there is no teaching or suggestion in the McAtee patent of an antibacterial tissue wherein the intermediate planar shaped absorbent member includes a thin one ply paper material having a plurality of openings formed therein as taught by Applicant.

Still further claim 10 is distinguishable over the McAtee patent because there is no teaching or suggestion in the McAtee patent of the antibacterial member having a dry antibacterial member which is activated by moisture from the body as in Applicant's Claim 4. Instead the McAtee patent discloses a soap and lathering agent that is activated by wetting the article and rubbing the article against itself.

Claim 11 is further distinguishable over the McAtee patent because there is no teaching or suggestion in the McAtee patent of an antibacterial tissue wherein the antibacterial member includes a layer of antibacterial soap.

There is also no teaching or suggestion in the McAtee patent of an antibacterial tissue wherein the antibacterial member includes a layer of antibacterial agent as taught in Applicant's claim 12.

The Examiner contends that the cleansing substance can be added onto or impregnated into any or all of the surfaces of the different layers, either before or after they are joined. This still would not teach or suggest Applicant's invention.

The Examiner also contends that the lather layer of the McAtee patent can be considered as an antibacterial agent, as are all soaps since the function is to remove bacteria. This is not the case. All soaps are not considered as antibacterial agents. However, this still would not teach Applicant's invention. The McAtee patent discloses a two-ply disposable cleansing article with a lathering agent and an optional conditional agent for cleansing the skin or hair. This is a totally different structure and concept than that of Applicant's invention.

It is submitted that this reference does not teach or suggest the invention that is taught in Applicant's claims and therefore Applicant's claims should be allowed.

Applicant submits, this application is in condition for allowance and such allowance is requested.

If the Examiner wishes to discuss minor changes or corrections in this application or if a discussion is desirable for the purpose of achieving mutual agreement leading to termination or prosecution and allowance of the application it is requested that he so advise Applicant by calling Kenneth D. Baugh whose number is (713) 529-2901.

RESPECTFULLY SUBMITTED,
BEVERLY RICHARD

By: 
KENNETH D. BAUGH
ATTORNEY FOR APPLICANT



March 18, 2005

COMMISSIONER OF PATENTS
P. O. BOX 1450
ALEXANDRIA, VA. 22313-1450

Attention: Art Unit 1772

SUBJECT: IN RE APPLICATION OF
 BEVERLY RICHARD
ENTITLED: ANTIBACTERIAL TOILET TISSUE

Serial No. 10/057,346

Filed: January 28, 2002

Sir:

Transmitted herewith is a response to the Official Action dated November 18, 2004 in the above referenced application. I hereby certify that this response to the Official Action dated November 18, 2004 is being placed with the U.S. Postal Service March 18, 2005 to be delivered by First Class Mail to the Commissioner of Patents P. O. Box 1450, Alexandria, Virginia 22313-1450.


KENNETH D. BAUGH
ATTORNEY FOR APPLICANT